

STATE OF TENNESSEE

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October 24, 2002

Opinion No. 02-118

Tenn. Code Ann. § 2-7-111 - 100 Foot Boundary - Campaign Free Zone - Applicability to Adjacent Private Property

QUESTION

Does the ban on the display of campaign signs within 100 feet of the entrance to a polling place set forth in Tenn. Code Ann. § 2-7-111 apply to the display of such signs on private property within the 100 foot zone.

OPINION

Based on an authoritative interpretation of Tenn. Code Ann. § 2-7-111 by the State Election Coordinator to all county election commissions in this State for the 2002 elections, the 100 foot “campaign-free” zone on election day does not extend to private property adjacent to and within 100 feet of the entrance to the polling place.

ANALYSIS

Tenn. Code Ann. § 2-7-111(a) states in part that “[t]he officer [of elections] shall measure off one hundred feet (100’) from the entrances to the building in which the election is to be held and place boundary signs at that distance.” Subsection (b)(1) of this statute further provides:

Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display of campaign posters, signs or other campaign materials, distribution of campaign materials, and solicitation of votes for or against any person or political party or position on a question are prohibited. No campaign posters, signs or other campaign literature may be displayed on or in any building in which a polling place is located.

The question posed is whether this 100 foot “campaign free” buffer zone extends to private property adjacent to a polling place which is within 100 feet of the entrance. The language of Tenn.

Code Ann. § 2-7-111 is ambiguous as to these circumstances. It is a rule of statutory construction that “weight and importance are given by the Tennessee courts to the interpretation of the agency charged with the enforcement or administration of a particular act” and “this is particularly true in the interpretation of doubtful or ambiguous statutes.” *Nashville Mobilephones v. Atkins*, 536 S.W.2d 335, 240 (Tenn. 1976). Furthermore, the State Election Coordinator is vested by statute with the duty and power to “authoritatively interpret the election laws for all persons administering them.” *See* Tenn. Code Ann. § 2-11-202(a)(4).

For the 2002 elections, the State Election Coordinator issued guidelines to all county election commissions reiterating his long held interpretation of Tenn. Code Ann. § 2-7-111 regarding “Campaign Activity at the Polling Place.” In particular, these guidelines state:

1. WHERE DOES THE CAMPAIGN FREE ZONE END?
 - A. Generally - 100’ from the entrances of the building in which the election is being held
 - B. In Blount, Bradley, Carter, Claiborne, Greene, McMinn, Monroe, Polk, Sumner, Unicoi and Wilson - 300’ from the entrances of the building in which the election is being held.

NOTE: In Attorney General Opinion No. 97-128, the Attorney General’s Office advised that the “provisions of the statute [Tenn. Code Ann. § 2-7-111] purporting to allow for boundaries of 300 feet in certain counties are unconstitutional.” Therefore, the election commission offices in the above-named counties should enforce the campaign free zone only up to 100 feet.

- C. **At the end of public property and at the beginning of private property over which the county election commission has no control.**

(Emphasis added)

Quite clearly, the State Election Coordinator has “authoritatively interpreted” Tenn. Code Ann. § 2-7-111 for all county election commissions in such a manner that the “campaign free” zone does not extend onto private property within 100 feet of the entrance to a polling place. Such an

interpretation is a reasonable construction of an ambiguous statute, and this Office sees no reason to disagree with the State Election Coordinator.

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